

Internal Revenue bulletin

Bulletin No. 1999-41
October 12, 1999

HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

INCOME TAX

Rev. Rul. 99-42, page 497.

LIFO; price indexes; department stores. The August 1999 Bureau of Labor Statistics price indexes are accepted for use by department stores employing the retail inventory and last-in, first-out inventory methods for valuing inventories for tax years ended on, or with reference to, August 31, 1999.

T.D. 8839, page 498.

Final regulations under section 6109 of the Code relate to IRS adoption taxpayer identification numbers.

EXEMPT ORGANIZATIONS

Rev. Proc. 99-35, page 501.

Tax-exempt bond administrative appeal. Procedures

are provided for issuers to request an administrative appeal to the Office of Appeals of a proposed adverse determination by an Employee Plans/Exempt Organizations Key District that the interest on their debt obligations (the bond issue) is not excludable from gross income under section 103 of the Code.

Announcement 99-96, page 504.

A list is given of organizations now classified as private foundations.

Announcement 99-97, page 505.

A list is provided of organizations that no longer qualify as organizations to which contributions are deductible under section 170 of the Code.

Actions Relating to Court Decisions is on the page following the Introduction.

Finding Lists begin on page ii.

Announcement of Declaratory Judgment Proceedings Under Section 7428 is on page 505.



Department of the Treasury
Internal Revenue Service

The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities

and by applying the tax law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents are consolidated semiannually into Cumulative Bulletins, which are sold on a single-copy basis.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and proce-

dures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The first Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the first Bulletin of the succeeding semiannual period, respectively.

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For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Actions Relating to Court Decisions

It is the policy of the Internal Revenue Service to announce at an early date whether it will follow the holdings in certain cases. An Action on Decision is the document making such an announcement. An Action on Decision will be issued at the discretion of the Service only on unappealed issues decided adverse to the government. Generally, an Action on Decision is issued where its guidance would be helpful to Service personnel working with the same or similar issues. Unlike a Treasury Regulation or a Revenue Ruling, an Action on Decision is not an affirmative statement of Service position. It is not intended to serve as public guidance and may not be cited as precedent.

Actions on Decisions shall be relied upon within the Service only as conclusions applying the law to the facts in the particular case at the time the Action on Decision was issued. Caution should be exercised in extending the recommendation of the Action on Decision to similar cases where the facts are different. Moreover, the recommendation in the Action on Decision may be superseded by new legislation, regulations, rulings, cases, or Actions on Decisions.

Prior to 1991, the Service published acquiescence or nonacquiescence only in certain regular Tax Court opinions. The Service has expanded its acquiescence program to include other civil tax cases where guidance is determined to be helpful. Accordingly, the Service now may acquiesce or nonacquiesce in the holdings of memorandum Tax Court opinions, as well as those of the United States District Courts, Claims Court, and Circuit Courts of Appeal. Regardless of the court deciding the case, the recommendation of any Action on Decision will be published in the Internal Revenue Bulletin.

The recommendation in every Action on Decision will be summarized as acquiescence, acquiescence in result only, or nonacquiescence. Both “acquiescence” and “acquiescence in result only” mean that the Service accepts the holding of the court in a case and that the Service will follow it in disposing of cases with the same controlling facts. However, “acquiescence” indicates neither approval nor disapproval of the reasons assigned by the court for its conclusions; whereas, “acquiescence in result only” indicates disagreement or concern with some or all

of those reasons. “Nonacquiescence” signifies that, although no further review was sought, the Service does not agree with the holding of the court and, generally, will not follow the decision in disposing of cases involving other taxpayers. In reference to an opinion of a circuit court of appeals, a nonacquiescence indicates that the Service will not follow the holding on a nationwide basis. However, the Service will recognize the precedential impact of the opinion on cases arising within the venue of the deciding circuit.

The Actions on Decisions published in the weekly Internal Revenue Bulletins are consolidated semiannually and annually. The semiannual consolidation appears in the first Bulletin for July and in the Cumulative Bulletin for the first half of the year, and the annual consolidation appears in the first Bulletin for the following January and in the Cumulative Bulletin for the last half of the year.

The Commissioner NONACQUIESCES in the following decision:

Mutual Assurance, Inc., v. United States,¹

56 F.3d 1353 (11th Cir. 1995)

¹ Nonacquiescence relating to whether a timely filed claim for refund that was allowed in full may be amended after the expiration of the statute of limitations for filing a claim for refund.

Part I. Rulings and Decisions Under the Internal Revenue Code of 1986

Section 472.—Last-in, First-out Inventories

26 CFR 1.472-1: Last-in, first-out inventories.

LIFO; price indexes; department stores. The August 1999 Bureau of Labor Statistics price indexes are accepted for use by department stores employing the retail inventory and last-in, first-out inventory methods for valuing inventories for tax years ended on, or with reference to, August 31, 1999.

Rev. Rul. 99-42

The following Department Store Inventory Price Indexes for August 1999 were issued by the Bureau of Labor Statistics. The indexes are accepted by the Internal Revenue Service, under § 1.472-1(k) of the Income Tax Regulations and Rev. Proc. 86-46, 1986-2 C.B. 739, for appropriate application to inventories of department stores employing the retail inventory and last-in, first-out inventory

methods for tax years ended on, or with reference to, August 31, 1999.

The Department Store Inventory Price Indexes are prepared on a national basis and include (a) 23 major groups of departments, (b) three special combinations of the major groups – soft goods, durable goods, and miscellaneous goods, and (c) a store total, which covers all departments, including some not listed separately, except for the following: candy, food, liquor, tobacco, and contract departments.

BUREAU OF LABOR STATISTICS, DEPARTMENT STORE INVENTORY PRICE INDEXES BY DEPARTMENT GROUPS (January 1941 = 100, unless otherwise noted)

Groups	Aug. 1998	Aug. 1999	Percent Change from Aug. 1998 to Aug. 1999 ¹
1. Piece Goods	555.1	546.1	-1.6
2. Domestics and Draperies	630.9	630.1	-0.1
3. Women's and Children's Shoes	656.2	635.3	-3.2
4. Men's Shoes	910.5	882.3	-3.1
5. Infants' Wear	616.2	623.9	1.2
6. Women's Underwear	579.1	550.7	-4.9
7. Women's Hosiery	306.5	322.1	5.1
8. Women's and Girls' Accessories	548.8	528.1	-3.8
9. Women's Outerwear and Girls' Wear	399.0	377.6	-5.4
10. Men's Clothing	621.0	609.9	-1.8
11. Men's Furnishings	594.0	610.6	2.8
12. Boys' Clothing and Furnishings	498.8	473.3	-5.1
13. Jewelry	981.9	962.0	-2.0
14. Notions	767.8	793.9	3.4
15. Toilet Articles and Drugs	940.7	971.6	3.3
16. Furniture and Bedding	679.6	679.3	0.0
17. Floor Coverings	601.8	602.1	0.0
18. Housewares-	809.9	788.2	-2.7
19. Major Appliances	238.0	234.8	-1.3
20. Radio and Television	71.4	65.7	-8.0
21. Recreation and Education ²	103.5	97.0	-6.3
22. Home Improvements ²	131.1	127.6	-2.7
23. Auto Accessories ²	107.3	106.8	-0.5
Groups 1 – 15: Soft Goods	598.7	589.9	-1.5
Groups 16 – 20: Durable Goods	460.2	447.4	-2.8
Groups 21 – 23: Misc. Goods ²	107.8	102.9	-4.5
Store Total ³	548.4	536.9	-2.1

¹ Absence of a minus sign before percentage change in this column signifies price increase.

² Indexes on a January 1986=100 base.

³ The store total index covers all departments, including some not listed separately, except for the following: candy, food, liquor, tobacco, and contract departments.

DRAFTING INFORMATION

The principal author of this revenue ruling is Richard C. Farley, Jr. of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue ruling, contact Mr. Farley on (202) 622-4970 (not a toll-free call).

Section 6109.—Identifying Numbers

26 CFR 301.6109-1: Identifying numbers.

T.D. 8839

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Parts 301 and 602

IRS Adoption Taxpayer Identification Numbers

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 6109 relating to taxpayer identifying numbers. The final regulations provide rules for obtaining IRS adoption taxpayer identification numbers (ATINs), which are used to identify children placed for adoption. The regulations assist prospective adoptive parents in claiming tax benefits with respect to these children.

DATES: *Effective Date:* These regulations are effective September 22, 1999.

Dates of Applicability: For dates of applicability of these regulations, see §§301.6109-1(h)(2)(iii) and 301.6109-3(d).

FOR FURTHER INFORMATION CONTACT: Beverly A. Baughman, (202) 622-4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of

1995 (44 U.S.C. 3507) under control number 1545-1564. Responses to this collection of information are required to obtain ATINs, which are used by prospective adoptive parents to claim tax benefits with respect to children placed for adoption.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collection of information in this final regulation is contained in §301.6109-3(c)(2). The information collection requirements of that section are satisfied by including the required information on Form W-7A or such other form as may be prescribed by the IRS to apply for an adoption taxpayer identification number (ATIN). The burden for this requirement is reflected in the burden estimated for the form. The current burden estimated for Form W-7A is 40 minutes per form.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the **Internal Revenue Service**, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to this collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains final Regulations on Procedure and Administration (26 CFR Part 301) relating to identifying numbers under section 6109.

On November 24, 1997, final and temporary regulations (T.D. 8739, 1997-2 C.B. 251) were published in the **Federal Register** (62 F.R. 62518). A notice of proposed rulemaking (REG-103330-97, 1997-2 C.B. 645) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (62 F.R. 62538).

Written comments responding to these notices were received and a public hear-

ing was held on March 4, 1998. After consideration of all the comments, the proposed regulations under section 6109 are adopted with minor changes by this Treasury decision, and the corresponding temporary regulations are removed. The comments and revisions are discussed below.

Explanation of Revisions and Summary of Comments

Comments were received concerning the requirement that, in order for an ATIN to be assigned, the child must be placed for adoption by an *authorized placement agency* as defined in §1.152-2(c)(2) of the regulations. The commentators expressed concern that because of this requirement ATINs are not available in the case of independent adoptions as defined by state law. In general, independent adoptions take two forms. In one type the biological parent(s) places the child with the adoptive parents with the assistance of an attorney or other intermediary. In other independent adoptions, no such intermediary is necessary because the adoptive parents and the biological parent(s) know one another.

The IRS and Treasury Department believe that, under section 1.152-2(c), *authorized placement agency* is not limited to governmental and private organizations authorized by state law to place children for legal adoption, but also includes biological parents and other persons authorized by state law to place children for legal adoption. To address commentators' concerns regarding independent adoptions, the IRS and Treasury Department intend to amend section 1.152-2(c) to clarify that this is the meaning of *authorized placement agency*. Accordingly, the final ATIN regulations continue to provide that *authorized placement agency* has the same meaning as in section 1.152-2(c) of the regulations.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because

the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Only individuals may receive ATINs under this Treasury decision.

Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking that preceded these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Beverly A. Baughman of the Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 301 and 602 are amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended by:

- 1. Removing the entries for sections 301.6109-1T and 301.6109-3T; and
- 2. Adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 301.6109-3 also issued under 26 U.S.C. 6109; * * *

Par. 2 Section 301.6109-1 is amended by:

- 1. Revising paragraph (a)(1)(i).
- 2. Revising the introductory text of paragraph (a)(1)(ii).
- 3. Revising paragraph (a)(1)(ii)(A).
- 4. Revising paragraph (a)(1)(ii)(B).
- 5. Revising paragraph (h)(2)(iii).

The revisions read as follows:

§301.6109-1 Identifying numbers.

(a) *In general*—(1) *Taxpayer identifying numbers*—(i) *Principal types*. There are several types of taxpayer identifying numbers that include the following: social security numbers, Internal Revenue Service (IRS) individual taxpayer identifica-

tion numbers, IRS adoption taxpayer identification numbers, and employer identification numbers. Social security numbers take the form 000-00-0000. IRS individual taxpayer identification numbers and IRS adoption taxpayer identification numbers also take the form 000-00-0000 but include a specific number or numbers designated by the IRS. Employer identification numbers take the form 00-0000000.

(ii) *Uses*. Social security numbers, IRS individual taxpayer identification numbers, and IRS adoption taxpayer identification numbers are used to identify individual persons. Employer identification numbers are used to identify employers. For the definition of social security number and employer identification number, see §§301.7701-11 and 301.7701-12, respectively. For the definition of IRS individual taxpayer identification number, see paragraph (d)(3) of this section. For the definition of IRS adoption taxpayer identification number, see §301.6109-3(a). Except as otherwise provided in applicable regulations under this chapter or on a return, statement, or other document, and related instructions, taxpayer identifying numbers must be used as follows:

(A) Except as otherwise provided in paragraph (a)(1)(ii)(B) and (D) of this section, and §301.6109-3, an individual required to furnish a taxpayer identifying number must use a social security number.

(B) Except as otherwise provided in paragraph (a)(1)(ii)(D) of this section and §301.6109-3, an individual required to furnish a taxpayer identifying number but who is not eligible to obtain a social security number must use an IRS individual taxpayer identification number.

* * * * *

(h) * * *

(2) * * *

(iii) Paragraphs (a)(1)(i), (a)(1)(ii) introductory text, (a)(1)(ii)(A), and (a)(1)(ii)(B) of this section apply to income tax returns due (without regard to extensions) on or after April 15, 1998.

§301.6109-1T [Removed]

Par. 3. Section 301.6109-1T is removed.

Par. 4. Section 301.6109-3 is added to read as follows:

§301.6109-3 IRS adoption taxpayer identification numbers.

(a) *In general*—(1) *Definition*. An *IRS adoption taxpayer identification number* (ATIN) is a temporary taxpayer identifying number assigned by the Internal Revenue Service (IRS) to a child (other than an alien individual as defined in §301.6109-1(d)(3)(i)) who has been placed, by an authorized placement agency, in the household of a prospective adoptive parent for legal adoption. An ATIN is assigned to the child upon application for use in connection with filing requirements under the Internal Revenue Code and the regulations thereunder. When an adoption becomes final, the adoptive parent must apply for a social security number for the child. After the social security number is assigned, that number, rather than the ATIN, must be used as the child's taxpayer identification number on all returns, statements, or other documents required under the Internal Revenue Code and the regulations thereunder.

(2) *Expiration and extension*. An ATIN automatically expires two years after the number is assigned. However, upon request, the IRS may grant an extension if the IRS determines the extension is warranted.

(b) *Definitions*. For purposes of this section—

(1) *Authorized placement agency* has the same meaning as in §1.152-2(c) of this chapter;

(2) *Prospective adoptive child* or *child* means a child who has not been adopted, but who has been placed in the household of a prospective adoptive parent for legal adoption by an authorized placement agency; and

(3) *Prospective adoptive parent* or *parent* means an individual in whose household a prospective adoptive child is placed by an authorized placement agency for legal adoption.

(c) *General rule for obtaining a number*—(1) *Who may apply*. A prospective adoptive parent may apply for an ATIN for a child if—

(i) The prospective adoptive parent is eligible to claim a personal exemption under section 151 with respect to the child;

(ii) An authorized placement agency places the child with the prospective adoptive parent for legal adoption;

(iii) The Social Security Administration will not process an application for an SSN by the prospective adoptive parent on behalf of the child (for example, because the adoption is not final); and

(iv) The prospective adoptive parent has used all reasonable means to obtain the child's assigned social security number, if any, but has been unsuccessful in obtaining this number (for example, because the biological parent who obtained the number is not legally required to disclose the number to the prospective adoptive parent).

(2) *Procedure for obtaining an ATIN.* If the requirements of paragraph (c)(1) of this section are satisfied, the prospective adoptive parent may apply for an ATIN for a child on Form W-7A, *Application for Taxpayer Identification Number for Pending Adoptions* (or such other form as may be prescribed by the IRS). An application for an ATIN should be made far enough in advance of the first intended use of the ATIN to permit issuance of the ATIN in time for such use. An application for an ATIN must include the information required by the form and accompanying instructions, including the name and address of each prospective adoptive parent and the child's name and date of birth. In addition, the application must include such documentary evidence as the IRS may prescribe to establish that a child was placed in the prospective adoptive

parent's household by an authorized placement agency for legal adoption. Examples of acceptable documentary evidence establishing placement for legal adoption by an authorized placement agency may include—

(i) A copy of a placement agreement entered into between the prospective adoptive parent and an authorized placement agency;

(ii) An affidavit or letter signed by the adoption attorney or government official who placed the child for legal adoption pursuant to state law;

(iii) A document authorizing the release of a newborn child from a hospital to a prospective adoptive parent for adoption; and

(iv) A court document ordering or approving the placement of a child for adoption.

(d) *Effective date.* The provisions of this section apply to income tax returns due (without regard to extension) on or after April 15, 1998.

§301.6109-3T [Removed]

Par. 5. Section 301.6109-3T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 6. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 7. In §602.101, paragraph (b) is amended by removing the entry for 301.6109-3T from the table and adding an entry in numerical order to the table to read as follows:

§602.101 OMB Control numbers.

* * * * *	
(b)* * *	
CFR part or section where identified and described	Current OMB control No.
* * * * *	
301.6109-3	1545-1564
* * * * *	

Robert E. Wenzel,
*Deputy Commissioner
of Internal Revenue.*

Approved June 17, 1999.

Donald C. Lubick,
*Assistant Secretary
of the Treasury.*

(Filed by the Office of the Federal Register on September 21, 1999, 8:45 a.m., and published in the issue of the Federal Register for September 22, 1999, 64 F.R. 51241)

Part III. Administrative, Procedural, and Miscellaneous

Administrative Appeal of Proposed Adverse Determination of Tax-Exempt Status of Bond Issue

Revenue Procedure 99-35

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SECTION 1. PURPOSE

As required by § 3105 of the Internal Revenue Service Restructuring and Re-

form Act of 1998, P.L. 105-206, 112 Stat. 685 (RRA 98), this revenue procedure provides procedures for Issuers (as defined in Rev. Proc. 96-16, 1996-1 C.B. 630) to request an administrative appeal to the Office of Appeals (Appeals) of a proposed adverse determination by an Employee Plans/Exempt Organizations Key District (the District) that the interest on their debt obligations (the Bond Issue) is not excludable from gross income under § 103 of the Internal Revenue Code.

SECTION 2. BACKGROUND

Prior to RRA 98, procedures did not exist for Issuers to appeal a proposed adverse determination by the District that the interest on a Bond Issue is not excludable from gross income of the bondholders. Section 3105 of RRA 98 directs the Service to modify its administrative procedures to allow Issuers to appeal a proposed adverse determination by the District to Appeals with respect to a Bond Issue. As a result, an Issuer may appeal a proposed adverse determination to Appeals before the District proceeds to tax bondholders. This revenue procedure sets forth procedures for Issuers to appeal proposed adverse determinations by the District, and makes other modifications to the examination process made appropriate by RRA 98.

As a result of the changes made by section 3105 of RRA 98, examination procedures have been modified to eliminate the requirement that the District receive a technical advice memorandum from Assistant Chief Counsel (Financial Institutions & Products) that is unfavorable to the Issuer before the District proceeds to tax bondholders.

SECTION 3. SCOPE

.01 In general. An appeal of a proposed adverse determination by the District is optional and is initiated by the Issuer as described below. Any issue raised by the District during an examination of a Bond Issue that would cause the interest on the Bond Issue not to be excludable from gross income under § 103 or claims for refund or rebates raised by the Issuers are appropriate for consideration by Appeals.

.02 Issuers as taxpayers. For purposes of examining Bond Issues, Issuers are

treated as taxpayers. See Section 8.02 of this revenue procedure regarding other persons that may participate in an Appeals proceeding.

.03 Conduit borrowers. In appropriate circumstances, Appeals may consider issues that relate to the tax liability of the beneficiary of bond proceeds in a conduit financing (Conduit Borrower) at the same time as the Issuer's appeal. Appeals will only consider an issue relating to the tax liability of a Conduit Borrower if the Conduit Borrower is under examination with respect to the issue, the resolution of the issue is affected by the determination of whether the interest on the Bond Issue is excludable from gross income under § 103, and the Conduit Borrower agrees to resolving the issue at the same time as the Issuer's appeal under this revenue procedure. See section 8.01 of this revenue procedure for Appeals procedures governing the Conduit Borrower.

.04 Early referral. Section 3465 of RRA 98 provides that the Service shall prescribe procedures by which a taxpayer may request early referral of one or more unresolved issues to Appeals. Under Revenue Procedure 99-28, 1999-29 I.R.B. 109, an Issuer may make a separate request to the District for the early referral to Appeals of one or more issues regarding a Bond Issue. See section 2.02 of Rev. Proc. 99-28 for issues that are appropriate for early referral. Early referral may also be appropriate for issues that are not determinative of whether the interest on the Bond Issue is excludable from gross income under § 103, including such issues for which the National Office has issued a technical advice memorandum to the District.

SECTION 4. ADMINISTRATIVE APPEAL PROCESS

.01 In general. Sections 4.03, 4.04, and 4.05 of this revenue procedure describe the circumstances in which an Issuer may appeal a proposed adverse determination by the District that the interest on a Bond Issue is not excludable from gross income under § 103. To the extent provided in sections 4.03(2), 4.04(2), or 4.05(2), the Issuer may request an appeal in accordance with section 5.

.02 Consultations with District Counsel. Prior to issuing a proposed adverse determination to the Issuer regarding a Bond Issue, the District will consult with District Counsel regarding whether the District should request technical advice. Technical advice should be requested, for example, when there is a lack of uniformity regarding the disposition of an issue or when an issue is unusual or complex enough to warrant consideration by the National Office.

.03 The District requests technical advice. (1) If, after consultation with District Counsel, the District determines that technical advice is warranted, the District will follow the procedures for requesting technical advice set forth in Rev. Proc. 99-2, 1999-1 I.R.B. 73, or subsequent revenue procedure. If the National Office issues a technical advice memorandum to the District, the District will notify the Issuer, in writing, of the National Office's determination.

(2) The written notice will identify the Bond Issue under examination and will include a copy of the technical advice memorandum. If the District has made a proposed adverse determination that the interest on the Bond Issue under examination is not excludable from gross income under § 103, the written notice will state the District's reasons for the proposed adverse determination, and will inform the Issuer of the availability of an administrative appeal of such proposed adverse determination.

.04 The Issuer requests technical advice. (1) If, after consultation with District Counsel, the District determines that technical advice is not necessary, the District will notify the Issuer, in writing, of its preliminary adverse determination that the interest on the Bond Issue is not excludable from gross income under § 103, and provide the Issuer with an opportunity to have closing agreement discussions. The notice will also inform the Issuer that it may request that an issue be referred to the National Office for technical advice in accordance with Rev. Proc. 99-2, 1999-1 I.R.B. 73, or subsequent revenue procedure. If the Issuer requests that an issue be referred to the National Office for technical advice, such referral will be made, and considered, in accordance with the procedures set forth in Rev. Proc. 99-2, or subsequent revenue procedure. If the Na-

tional Office issues a technical advice memorandum to the District, the District will notify the Issuer, in writing, of the National Office's determination.

(2) The written notice will identify the Bond Issue under examination and will include a copy of the technical advice memorandum. If the District has made a proposed adverse determination that the interest on the Bond Issue under examination is not excludable from gross income under § 103, the written notice will state the District's reasons for the proposed adverse determination, and will inform the Issuer of the availability of an administrative appeal of such proposed adverse determination.

.05 Technical advice not requested. (1) If, after receiving notice of the District's preliminary adverse determination described in section 4.04(1) of this revenue procedure, the Issuer does not request technical advice or if the Issuer's request is denied, the District will provide the Issuer with an opportunity to have closing agreement discussions. If closing agreement discussions between the Issuer and the District are unsuccessful, the District will send the Issuer a written notice to the effect that the District has made a proposed adverse determination that the interest on the Bond Issue under examination is not excludable from gross income under § 103.

(2) The written notice will identify the Bond Issue under examination, state the District's reasons for its proposed adverse determination and inform the Issuer of the availability of an administrative appeal of the District's proposed adverse determination.

.06 Closing agreement with the District. The District will retain jurisdiction over the Bond Issue until the Issuer has made a request to appeal the District's proposed adverse determination that interest on the Bond Issue is not excludable from gross income under § 103 and the agent's file has been sent to Appeals in accordance with section 6 of this revenue procedure. Prior to requesting an appeal, the Issuer may enter into closing agreement discussions with the District and execute a closing agreement with respect to the Bond Issue. The District will generally prepare a closing agreement using the model closing agreement provided in Internal Revenue Manual exhibit 7.6.2.5-3.

SECTION 5. HOW TO REQUEST AN APPEAL

.01 In general. Established Appeals procedures, including those governing submissions and taxpayer conferences, apply to requesting an appeal of a proposed adverse determination that interest on a Bond Issue is not excludable from gross income under § 103. See § 601.106 *et seq.* of the Statement of Procedural Rules.

.02 The Issuer's appeal request and response to the District's notice. The Issuer's appeal request must be in writing. The appeal request must include a detailed written response to the District's notice of the District's proposed adverse determination, and include any further explanation of the Issuer's position regarding the issue(s) in dispute. The Issuer's written appeal request must be submitted to the District within 30 days of the date of the notice from the District regarding its proposed adverse determination. The District may extend this 30-day requirement following a written request by the Issuer justifying such extension. The Issuer or the Issuer's authorized representative must sign an appeal request. It is preferred that Form 2848, Power of Attorney and Declaration of Representative, be used to designate an authorized representative when making an appeal request under this revenue procedure.

.03 Failure to make appeal request. If the Issuer does not submit a written appeal request within the time period set forth in section 5.02 of this revenue procedure, the District's proposed adverse determination shall become final and the District may begin the process of taxing bondholders without further notice to the Issuer.

SECTION 6. THE DISTRICT FORWARDS CASE FILE TO APPEALS

The District will forward the case file to Appeals. The file should include copies of the following:

1. the technical advice memorandum, if any;
2. all information received by the District from the Issuer regarding the Bond Issue;
3. all work papers of the District examining the Bond Issue;
4. the District's notice;

5. the Issuer's written appeal request, and

6. the District's response to the Issuer's position, if any.

After the case file is sent to Appeals, Appeals will have jurisdiction over the Bond Issue.

SECTION 7. PROCESSING AN APPEAL REQUEST

An appeal by an Issuer of a proposed adverse determination will be assigned to a senior Appeals officer, who will make every effort to resolve the case as expeditiously as possible.

SECTION 8. RESOLVING AN APPEAL ISSUE(S)

.01 In general. Established Appeals procedures, including those governing submissions and taxpayer conferences, apply to appeals regarding Bond Issues. See § 601.106 *et seq.* of the Statement of Procedural Rules. See also Treasury Department Circular 230, 31 C.F.R., Part 10. The procedures in sections 8.04 and 8.05 of this revenue procedure, specifically apply to Bond Issues.

.02 Other participants in the Appeals process. The Issuer may authorize any person (e.g., Conduit Borrower) to inspect or receive confidential information during the Appeals process by submitting a duly executed Taxpayer Information Authorization (Form 8821) to the Appeals

officer. In addition, the Issuer may authorize certain persons to represent the Issuer before Appeals by submitting a duly executed Power of Attorney and Declaration of Representative (Form 2848) to the Appeals Officer.

.03 New information provided. If the Issuer provides additional information not previously given to the District, Appeals will forward the information to the District for its comments.

.04 If agreement is reached. If Appeals and the Issuer agree that no action is necessary with respect to the Bond Issue, Appeals will notify the District and close the case. If Appeals and the Issuer reach an agreement with respect to the Bond Issue, Appeals will generally prepare a closing agreement using the model closing agreement provided in Internal Revenue Manual exhibit 7.6.2.5-3.

.05 If agreement is not reached. (1) If Appeals and the Issuer fail to reach an agreement with respect to an appeal, Appeals will close the appeal file, return jurisdiction over the Bond Issue to the District, and send a copy of the Appeals Case Memorandum with respect to the Bond Issue to the District. In such case, the District's proposed adverse determination shall become final and the District may begin the process of taxing the bondholders without further notice to the Issuer.

(2) Appeals will not reconsider an unagreed appeal unless there has been a sub-

stantial change in the circumstances regarding the appeal issue.

SECTION 9. NO USER FEE

There is no user fee for an appeal request.

SECTION 10. EFFECTIVE DATE

These procedures are generally effective on September 22, 1999, the date this revenue procedure is released to the public, with respect to proposed adverse determinations made by the District for Bond Issues for which a closing agreement has not been executed.

DRAFTING INFORMATION

The principal authors of this revenue procedure are Theodore J. Cichaski, Senior Program Analyst and Thomas Carter Louthan, Director, Office of Alternative Dispute Resolution & Customer Service Programs, National Office Appeals; Bruce M. Serchuk, Senior Technician Reviewer, Office of Associate Chief Counsel (Financial Institutions and Products); and Joseph Grabowski, Senior Analyst, Exempt Organizations Division. For further information regarding this revenue procedure, please contact Mr. Louthan at (202) 694-1842, Mr. Serchuk at (202) 622-3980, or Mr. Grabowski at (202) 622-7761 (not toll-free numbers).

Part IV. Items of General Interest

Foundations Status of Certain Organizations

Announcement 99-96

The following organizations have failed to establish or have been unable to maintain their status as public charities or as operating foundations. Accordingly, grantors and contributors may not, after this date, rely on previous rulings or designations in the Cumulative List of Organizations (Publication 78), or on the presumption arising from the filing of notices under section 508(b) of the Code. This listing does *not* indicate that the organizations have lost their status as organizations described in section 501(c)(3), eligible to receive deductible contributions.

Former Public Charities. The following organizations (which have been treated as organizations that are not private foundations described in section 509(a) of the Code) are now classified as private foundations:

American Community for Research and Education Development, Inc., New York, NY
American Friends of the Vincentian Mission, Massapequa Park, NY
American Fund for Human Potential, Inc., Tamarac, FL
American Luxor Foundation, Hertford, NC
Annie's Orphans, Durango, CO
Baseball Americana Foundation, Inc., Deerfield, IL
Bibleway Community Development Corporation, Gary, IN
Bio-Behavioral Institute, Inc., Jacksonville, FL
Biomedical Park Development Corporation, New Haven, CT
Blue Ice Corporation, Ellicott City, MD
Bonsall Community Center, Fallbrook, CA
Bread for the Soul, Washington, DC
Carolyn Darch Ministries, Inc., Troy, MI
Citizens for Lecompte United for a Better Community, Inc., Lecompte, LA
Community Economic Development Corporation, Los Angeles, CA
Conference of Funeral Service Examining Boards Foundation, Inc., Muncie, IN
Deborah G. Dunston Seniors Retreat, Mt. Ida, AR

Diana Roberts Memorial Scholarship Fund, New York, NY
Duzyj Charitable Foundation, Warren, MI
Earth Now, Eugene, OR
Economic and Human Development Foundation, Willow Creek, CA
El Shaddai Elohim Ministry, Inc., Ava, MO
Ernst Krenek Society, Inc., Palm Springs, CA
Ezras Mamesh Tr, Brooklyn, NY
Families First, Missoula, MT
First Amendment Productions, Inc., Huntington, NY
Florida School of Safe Performance, Inc., Okahumpka, FL
Foundation for Cultural & Literary Studies, Henderson, NV
Foundation for the Deaf-Blind, Inc., Somerset, NJ
Friends of the Israeli Women's Network, Inc., Springfield, NJ
Friends of Prairie Spirit Farm, Inc., Verona, WI
Garden of Dreams Youth and Family Services, Richton Park, IL
Garricks Animal Shelter, Readfield, WI
Gospel Skates, Inc., Oakland, CA
Grace Development Corporation, Moline Acres, MO
Grace International Foundation for Total Health, Ltd., Boca Raton, FL
Guiding Light Outreach Ministries Church, Inc., St. Louis, MO
Halifax Organization for Economic Development, Durham, NC
Hearts of Heroes, Inc., Titusville, FL
Henry and Company Boarding Home, Inc., Orange, NJ
Heritage Preservation Society, Houston, TX
Heroes Unite, Inc., Miami, FL
High Land Place, Inc., Blaine, MN
Hoganson Foundation, Ltd., Burlington, WI
Institute for Advanced Scientific Studies, Ltd., Wilmington, DE
Institute of Interdisciplinary Research and Technology, Inc., New York, NY
Interlinks Community Development Corporation, Memphis, TN
International Center of Design Art to God to the World and to Man, Inc., New York, NY
Jimmy Ray Ministries, Inc., Tulsa, OK

John and Mary Alice Beck Scholarships, Inc., Cohasset, MA
Killingsworth-Utsman Foundation, San Angelo, TX
Kings Kids Outreach Ministries, Abilene, TX
The Lighthouse Foundation, McAllen, TX
Lighthouse Ministries, Honolulu, HI
Linking Industry with Nonprofit Charities, Inc., Tulsa, OK
Louisiana Horseman Substance Abuse Foundation, Inc., New Orleans, LA
Marine Academy Scholarship Fund, Inc., Dallas, TX
Montessori Catholic Council, Inc., Centerville, VA
Mother of the Holy Incarnation, Colorado Springs, CO
Music Missions International, Inc., Charlotte, NC
National Ego Project, Inc., Berea, OH
National Men's Health Foundation, Emmaus, PA
Neighborhood of Winners NOW, Inc., Birmingham, AL
New Covenant Research, Chicago, IL
New Life Systems a Nonprofit Corporation, Santa Monica, CA
Old City of Jerusalem Fund, Brooklyn, NY
Operation Children's Hope, Marengo, IL
Parents and Students Succeed Association, Dallas, TX
Parke Vermillion Vocational Building Trades, Inc., Clinton, IN
Partnership for Connecticut Cities, Inc., New Haven, CT
Philippine National Day Association, Sacramento, CA
Phoenix Rising, Inc., Missoula, MT
Pino Foundation, Inc., Orlando, FL
Pleasant Hills Historical Society, Pittsburgh, PA
Potomac Community Development Corporation, Alexandria, VA
Project Heart, East Hanover, NJ
Public Golf Foundation of America, Chicago, IL
Reliefnet, New York, NY
Rescue Foundation, South Pasadena, CA
Ron Santo-Freedom Jet Foundation, Inc., Bradley, IL
Rural Health Foundation of Iowa, Des Moines, IA

Sam Butcher Fund, Inc., Morgantown, WV
 Seguin-Guadalupe County Heritage Museum, Inc., Seguin, TX
 Senior Citizens Center, Inc., Beatrice, NE
 Shepherd of the Streets, Inc., New York, NY
 Sistership, Inc., Dayton, OH
 S M Temple Foundation, Inc., Hudson, OH
 Society for the Humanitarian Assistance of Northern Iraq, Annandale, VA
 Spiritual Library, Inc., Gaithersburg, MD
 Team L.A., Inc., Santa Monica, CA
 Tedesco, Inc., Norman, OK
 Thee Art Tree Service, Seattle, WA
 Tregoe Education Forum, Inc., Princeton, NJ
 Trinity & Associates, Inc., Mexico, NY
 United Communities to Advance Our Neighborhoods, Inc., Russell, KY
 Upper Skagit Historical and Recreational Association, Concrete, WA
 US Metro American Metropolitan Institute Corporation, Springfield, VA
 Warren James Memorial Home for Children, Lakeview Terrace, CA
 Winter Park Association, Kennebunk, ME
 Wolf Lake Research Laboratories, Inc., Grass Lake, MI
 World Hope Organization, Inc., Brooklyn, NY
 Youthful Elderly and Retirement Seniors, Inc., Beaumont, TX
 YWCA Housing Corporation, Lincoln, NE

If an organization listed above submits information that warrants the renewal of its classification as a public charity or as a private operating foundation, the Internal Revenue Service will issue a ruling or determination letter with the revised classification as to foundation status. Grantors and contributors may thereafter rely upon such ruling or determination letter as provided in section 1.509(a)-7 of the Income Tax Regulations. It is not the practice of the Service to announce such revised classification of foundation status in the Internal Revenue Bulletin.

Deletions From Cumulative List of Organizations Contributions to Which Are Deductible Under Section 170 of the Code

Announcement 99-97

The names of organizations that no longer qualify as organizations described in section 170(c)(2) of the Internal Revenue Code of 1986 are listed below.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on October 12, 1999, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1).

For individual contributors, the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual who was responsible, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Mississippi Wildlife Conservation, Inc.
 Brookhaven, MS

Sta-Home Home Health Agency of Forest, Inc., Jackson, MS

Sta-Home Home Health Agency of Grenada, Inc., Jackson, MS

Sta-Home Home Health Agency of Jackson, Inc., Jackson, MS

Section 7428(c) Validation of Certain Contributions Made During Pendency of Declaratory Judgment Proceedings

This announcement serves notice to potential donors that the organizations listed below have recently filed timely declaratory judgment suits under section 7428 of the Code, challenging revocation of their status as eligible donees under section 170(c)(2).

Protection under section 7428(c) of the Code begins on the date that the notice of revocation is published in the Internal Revenue Bulletin and ends on the date on which a court first determines that an organization is not described in section 170(c)(2), as more particularly set forth in section 7428(c)(1). In the case of individual contributors, the maximum amount of contributions protected during this period is limited to \$1,000.00, with a husband and wife being treated as one contributor. This protection is not extended to any individual who was responsible, in whole or in part, for the acts or omissions of the organization that were the basis for the revocation. This protection also applies (but without limitation as to amount) to organizations described in section 170(c)(2) which are exempt from tax under section 501(a). If the organization ultimately prevails in its declaratory judgment suit, deductibility of contributions would be subject to the normal limitations set forth under section 170.

American Heart Foundation
 Des Moines, IA

IHC Health Plans, Inc.
 Salt Lake City, UT

Sta-Home Home Health Agency of Grenada, Inc., Jackson, MS

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it ap-

plies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in law or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in the new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the

new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C.—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.

E.O.—Executive Order.
ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contribution Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign Corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.

PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statements of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

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¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 1999–1 through 1999–26 will be found in Internal Revenue Bulletin 1999–27, dated July 6, 1999.

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¹ A cumulative finding list of actions published in Internal Revenue Bulletins 1999–1 through 1999–26 will be found in Internal Revenue Bulletin 1999–27, dated July 6, 1999.

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